



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order resolves Defendants’ letter motion at Dkt. 354 to compel Plaintiff to respond to Lamar Interrogatory No. 15. The motion is granted in part and denied in part. First, the Court agrees with Plaintiff that the interrogatory’s use of the term “format” is ambiguous. Second, the Court agrees with Defendant that the response already provided by Plaintiff (the risk range calculations – defined to include algorithms, formulas, or models – “are not memorialized in tangible form”) seems at odds with Plaintiff’s deposition testimony (McCullough has a risk range algorithm or program on his laptop). But that is a credibility issue to which the Court cannot compel an explanation. In any event, Plaintiff’s response does not directly answer the question posed as to “the particular location(s) in which those models are stored.” Either the risk range models are stored in a location or they are not. Defendant’s answer that the calculations are not memorialized in tangible form perhaps is meant to communicate the latter. But that is not self-evident. Accordingly, by **October 18, 2022**, Plaintiff shall provide an amended interrogatory response either identifying the location(s) in which the risk range calculations, algorithms, formulas, or models are stored or stating, in substance, that the calculations are intangible and therefore not stored in any location. Although the answer to the interrogatory may

be of limited relevance – given Plaintiff’s representation that it does not allege misappropriation with regard to risk range calculations – amending the response as directed requires minimal effort and is proportional to the needs of the case. Moreover, Plaintiff did not object to the interrogatory as asking for irrelevant information when responding to it the first time.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: October 11, 2022
New York, New York

Copies transmitted this date to all counsel of record.